REMARKS

Claims 1-17 are pending. Claims 1-3 and 5-17 are presented for consideration. Claim 4 was previously withdrawn from consideration. No claim is amended. No claim is cancelled.

Claims 1-3 and 5-17 stand rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Pat. 6,850,564 to Pejhan et al., (hereinafter referred to as "Pejhan").

In an interview with Examiner Rao, it was noted that at least claim 10 recites obtaining a “real-time” measure of the amount of time the algorithm takes to process its previous frame, and that each newly obtained “real-time” measures is averaged with previously taken “real-time” measures to create a “weighted average time value” of real-time measures. It was further noted that this weighted time value is used as an indicator of computational load on a machine to determine when to upgrade or downgrade the algorithm.

Examiner Rao explained that he had overlooked the “real-time” characteristic of the “weighted time value”, and had thereby equated the claimed weighted time value with Pejhan’s description of specifying a transmission frame rate. Examiner Rao agreed that Pejhan’s transmission frame rate does not read on the claimed weighted (real) time value.

Applicants thank the Examiner, and further note that a transmission frame rate specification does not, in general, read on a time measure of how long it takes an algorithm to process a frame. In other words, an algorithm may process a frame quickly or slowly, depending on the frame complexity and other characteristics. Therefore, the time required for an algorithm to finish processing a frame varies from frame-to-frame, and this time may be different than a specified transmission frame rate. It is for this reason that a frame buffer is needed to hold frames waiting to be transmitted at a specified frame rate, and it is for this reason that buffer under-run and over-run conditions may develop. Therefore, an algorithm’s speed at processing frames is not directly connected to a specified transmission frame rate. This is particularly evident when one considers that the receiving device often specifies the transmission frame rate, and that the transmitting device

(which executes the encoding algorithm) may be a faster or slower machine than the receiving device.

This Response After Final Rejection is believed proper Under 37 CFR §1.116. Accordingly, entry of this Response After Final Rejection, as an earnest attempt to advance prosecution and reduce the number of issues, is respectfully requested. Should the Examiner believe that issues remain outstanding, he is respectfully requested to contact applicants' undersigned attorney in an effort to resolve such issues and advance the case to issue.

Reconsideration of the present application is respectfully requested.

Respectfully submitted,

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